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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,940	04/06/2007	Rolf Weiler	AP 10800	7081
52203	7590	07/13/2009		
CONTINENTAL TEVES, INC. ONE CONTINENTAL DRIVE AUBURN HILLS, MI 48326-1581			EXAMINER BURCH, MELODY M	
			ART UNIT 3657	PAPER NUMBER
			MAIL DATE 07/13/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,940	<b>Applicant(s)</b> WEILER ET AL.	
	<b>Examiner</b> Melody M. Burch	<b>Art Unit</b> 3657	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 7-12 are objected to because of the following informalities: the phrase "the brake lining" first recited in claim 7 but not limited to claim 7 should be changed to --the at least one brake lining-- to maintain consistent terminology. The remaining claims are objected to due to their dependency from claim 7. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by GB-2185079 (GB'079).

Re: claims 7, 8, and 12. GB'079 shows in figures 1-4 a spot-type disc brake comprising: a brake caliper 11 straddling a brake disc 10, at least one brake lining 19 displaceably arranged in relation to the brake caliper for tribological interaction with the brake disc when the brake is applied; at least one actuating device 26,27 arranged in the brake caliper for exerting an application force on the brake lining, and a spring assembly 29,31,33,34 to adjust a clearance between the brake lining and the brake disc after brake application, which is detachably fastened in the spot type disc brake, wherein the spring assembly includes a spring element 30,31 which is at least radially

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and axially supported on the brake caliper and, in addition, comprises a spring clip 34 connected to the spring element and being detachably fastened at the brake lining by way of two spring arms 33,33.

Re: claim 9. GB'079 shows the limitation wherein the spring clip 34 has spring arms 33,33 and is received in a rotatable fashion at a brake lining 19 which is coupled to the at least one actuating device, via intervening elements such as the brake disc particularly when the brake is applied, as broadly recited.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB'079 in view of US Patent Application 2002/0043436 to Burgdorf et al.

GB'079 is silent with regards to the spring arm being hooked into a receiving element which is attached to the brake lining.

Burgdorf et al. teach in figure 1 the use of a spring arm being hooked into a receiving element 13 which is attached to a brake lining 5.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the connection of the spring arm to the brake lining of GB'079 to have been by way of the spring arm being hooked into a receiving

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element, as taught by Burgdorf et al., in order to provide a means of preventing decoupling of the spring arm from the brake lining to help maintenance pad to clearance maintenance.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB'079 in view of EP-1227260 (EP'260).

GB'079 is silent with regards to the spring clip and the spring element being designed as separate components.

EP'260 teaches in figure 3 the use of a spring assembly with the spring clip 15 and the spring element 14 being designed as separate components.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the spring assembly of GB'079 to have included the spring clip and spring element designed as separate components, as taught by EP'260, in order to provide a means of replacing one of the components without having to remove the entire spring assembly. See *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961) (The claimed structure, a lipstick holder with a removable cap, was fully met by the prior art except that in the prior art the cap is "press fitted" and therefore not manually removable. The court held that "if it were considered desirable for any reason to obtain access to the end of [the prior art's] holder to which the cap is applied, it would be obvious to make the cap removable for that purpose.").

### ***Response to Arguments***

7. Applicant's arguments filed 3/23/09 have been fully considered but they are not persuasive. Applicant argues that GB'079 does not anticipate claim 7 because pad 19

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is not both displaceably arranged in relation to the brake caliper and detachably fastened at the brake lining By way of the two spring arms. Applicant argues, in particular, that pad 19 is not a displaceably arranged pad. Examiner disagrees and notes that GB'079 describes the displaceable arrangement of pad 19 on pg. 2 line 64 – line 67 in which it describes an arrangement "to allow pad 19 to *move* clear of the disc 10." Examiner maintains that this disclosure satisfies the limitation of the at least one brake lining 19 displaceably arranged in relation to the brake caliper 11 in the GB'079 reference. As shown in figure 2, spring element 30, 31 of spring assembly 29 is detachably fastened at the brake lining 19 by way of two spring arms 33, 33. Accordingly, GB'079 anticipates the claim contrary to Applicant's argument causing the Examiner to maintain the current rejections.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb  
July 9, 2009

/Melody M. Burch/  
Primary Examiner, Art Unit 3657